



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 21, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0136

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 Primary investigations 3. Officers shall take statements in Certain Circumstances	Not Sustained - Unfounded (Expedited)
# 2	15.180 Primary investigations 5. Officers shall document all primary investigations on a report	Not Sustained - Unfounded (Expedited)
# 3	5.140 Bias-Free Policing 2. Officers will not engage in bias-based policing	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 Standards and duties 11. Employees will be truthful and complete in all communication	Not Sustained - Unfounded (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	15.180 Primary investigations 3. Officers shall take statements in Certain Circumstances	Not Sustained - Unfounded (Expedited)
# 2	15.180 Primary investigations 5. Officers shall document all primary investigations on a report	Not Sustained - Unfounded (Expedited)
# 3	5.140 Bias-Free Policing 2. Officers will not engage in bias-based policing	Not Sustained - Unfounded (Expedited)

Named Employee #4

Allegation(s):		Director's Findings
# 1	15.180 Primary investigations 3. Officers shall take statements in Certain Circumstances	Not Sustained - Unfounded (Expedited)
# 2	15.180 Primary investigations 5. Officers shall document all primary investigations on a report	Not Sustained - Unfounded (Expedited)
# 3	5.140 Bias-Free Policing 2. Officers will not engage in bias-based policing	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.



EXECUTIVE SUMMARY:

The Complainant alleged that Named Employee #1 (NE#1), Named Employee #3 (NE#3), and Named Employee #4 (NE#4) improperly investigated a dispute between his mother (Community Member #1 or CM#1) and her neighbor (Neighbor #1). The Complainant also alleged that NE#1, NE#3, and NE#4 failed to arrest CM#2 and that the officers' inaction was motivated by bias.

The Complainant also alleged that Named Employee #2 (NE#2), a sergeant, was dishonest about his attempts to contact the Complainant.

ADMINISTRATIVE NOTE:

This case was approved for an Expedited Investigation. That means that OPA, with the Office of Inspector General's (OIG) agreement, believed it could recommend findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

On May 4, 2023, OIG certified this investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant contacted OPA on behalf of his mother, CM#1, and his sister, Community Member #2 (CM#2). The Complainant said CM#1 and CM#2 have disabilities. The Complainant said Neighbor #1 threatened CM#1 and CM#2, and Neighbor #1 attacked CM#1. The Complainant alleged Neighbor #1 attacked CM#1 multiple times, including with pepper spray, and used his security cameras to watch CM#1, but the police failed to arrest Neighbor #1. The Complainant alleged the officers failed to act due to racial bias.

OPA opened an investigation, including reviewing the OPA complaint, computer-aided dispatch (CAD) call reports, incident reports, body-worn video (BWV), and closed-circuit television (CCTV). OPA also interviewed the Complainant and CM#1. CM#2 was not interviewed as she was a juvenile and admitted to brandishing a machete during the incident.

This incident stems from an ongoing conflict between CM#1 and other townhome (the Townhomes) residents. OPA reviewed three incidents that occurred over two days. The Complainant was not present for any of the incidents.

a. Incident #1 – March 24, 2023

On March 24, 2023, the CAD call report showed officers responded to an assault call at the Townhomes. Neighbor #1 called 9-1-1 to report that CM#1 threw a ladder at him, knocking him down. Call remarks showed Neighbor #1 also accused CM#1 of destroying his CCTV cameras and assaulting neighbors. The Complainant also called 9-1-1 to report that CM#1 was "being attacked" by Neighbor #1. The Complainant called back to request an update.

Witness Officer #1 (WO#1) completed a report for Incident #1. WO#1 completed his report as a Charge-By-Officer (CBO). An officer may issue a CBO for misdemeanor offenses. CBOs are forwarded to the City Attorney's Office for consideration. *See generally* SPD Policy 15.020 [Charge-By-Officer (CBO)]. WO#1 interviewed Neighbor #1 and his wife,



Neighbor #2. WO#1 wrote that Neighbor #1 reported CM#1 assaulted him with a ladder. Neighbor #1 stated he saw CM#1 on a ladder destroying Neighbor #1's cameras. Neighbor #1 said he confronted CM#1, but CM#1 used the ladder to push him away, causing Neighbor #1 to fall and suffer abrasions. Neighbor #1 reported that CM#1 had a history of assaulting neighbors. WO#1 contacted CM#1, who admitted to damaging Neighbor #1's cameras in retaliation for her security cameras being destroyed. CM#1 did not provide her reason for believing Neighbor #1 damaged her cameras. WO#1 wrote that he observed CCTV showing CM#1 breaking Neighbor #1's cameras. WO#1 also photographed Neighbor #1's alleged injuries.

b. Incident #2 – March 25, 2023, Morning

The CAD call report showed that on March 25, 2023, around 11:31 a.m., a 9-1-1 caller—possibly CM#2—reported CM#1 removing Neighbor #1's cameras and Neighbor #1 pepper-spraying CM#1. The 9-1-1 caller also reported Neighbor #1 putting his cameras back up. Around 11:45 a.m., Neighbor #1 called 9-1-1 to report that CM#1 had what appeared to be a firearm and knocked on his window, threatening to shoot him. Around 2:17 p.m., the Complainant called 9-1-1 requesting a call back from an SPD sergeant. Around 2:22 p.m., the Complainant said he was told to expect a call from an SPD sergeant, but he never received one. Around 3:12 p.m., NE#2 told the 9-1-1 dispatcher that he tried to call the Complainant, but no one answered. Around 5:36 p.m., NE#2 reported that he tried calling the Complainant again.

NE#4 wrote Incident #2's report. NE#4 wrote that as he approached the Townhomes, an unidentified resident reported that CM#1 caused numerous disturbances with other tenants. NE#4 documented speaking with CM#1 and CM#2. NE#4 noted CM#1 had bloodshot eyes and reddish skin. NE#4 wrote that CM#1 admitted to past disturbances and knocking down Neighbor #1's cameras. CM#1 said she saw Neighbor #1 fixing a camera she knocked down. CM#1 said Neighbor #1 approached and pepper sprayed her. CM#1 repeatedly said she would not let the incident go and would handle the matter herself. NE#4 wrote that CM#1 admitted owning a handgun but denied using it during the incident. NE#4 wrote that he advised CM#1 not to escalate the matter. NE#4 also wrote that CM#2 corroborated CM#1's account.

NE#4 documented speaking with Neighbor #1 and Neighbor #2. Neighbor #1 reported that CM#1 threatened other residents and that neighbors were afraid of her. NE#4 wrote that Neighbor #1 was visibly shaking during the interview and that Neighbor #1 said he was shaking from fear. NE#4 wrote that Neighbor #1 reported he was outside on a ladder fixing a camera when CM#1 approached screaming. Neighbor #1—about sixty-eight years old—continued that his physical condition declined, and he could not protect himself from CM#1, but CM#1 would not leave him alone. Neighbor #1 admitted pepper spraying CM#1. Neighbor #1 said CM#1 reapproached with a machete, so Neighbor #1 retreated into his apartment. Neighbor #1 said CM#1 banged on his window with what looked like a firearm. Neighbor #2 reportedly heard the disturbance and saw CM#1 at Neighbor #1's window with what was possibly a stick. Neighbor #2 said she also feared CM#1. NE#4 wrote that he tried to review the CCTV footage, but Neighbor #1 could not operate the system. NE#4 requested SPD's Video Unit recover the video.



NE#2 filed a supplementary statement covering a conversation with the Complainant. NE#2 wrote that he learned that the Complainant wanted to speak with a supervisor. NE#2 wrote he observed no one had called the Complainant, so he called him around 3:10 p.m. and 5:33 p.m. There was no answer or voicemail. NE#2 wrote that he updated dispatch. NE#2 wrote that, around 6:00 p.m., a dispatcher reported that the Complainant was on the line. NE#2 documented speaking with the Complainant. According to NE#2, the Complainant stated he had no missed calls. NE#2 wrote that he spoke with the Complainant for about an hour and that the Complainant was upset that Neighbor #1 was not arrested. NE#2 documented that he tried explaining the situation and decision-making, but the Complainant was dissatisfied. NE#2 wrote that the Complainant argued Neighbor #1 should have been arrested because Neighbor #1 is a man and CM#1 and CM#2 are women. NE#2 also wrote that the Complainant said CM#1 and CM#2 believed they were burglarized. NE#2 advised the Complainant he would have the reported burglary investigated.

OPA reviewed BWV for Incident #2. The BWV appeared consistent with NE#4's incident report.

c. Incident #3 – March 25, 2023, Evening

On March 25, 2023, around 7:07 p.m., NE#2 initiated an incident report. NE#2 spoke with the Complainant, who reported a burglary at CM#1's residence and requested officers respond. The call remarks noted a "secured firearm" in the home. Officers arrived at the scene but were informed that the reporting party had left.

An SPD officer contacted CM#1 and CM#2 the next day regarding Incident #3. The officer documented additional information from CM#1 and CM#2 concerning Incident #2. No information was documented concerning a burglary.

d. CCTV

OPA reviewed CCTV recovered by SPD's Video Unit. It showed CM#1 pointing what appeared to be a firearm at Neighbor #1's window, banging on the window with the object, then aiming it at the window again.



*CCTV screenshot showing CM#1 aiming an object at Neighbor #1's window.
CM#1 is obscured by the black oval.*



e. OPA Interview – Complainant and CM#1

The Complainant called OPA for an interview. CM#1 was also on the call.

The Complainant said his chief complaint was that Neighbor #1 was not arrested for pepper spraying CM#1, particularly since Neighbor #1 is a man and CM#1 is a woman. The Complainant said the named employees on the scene—NE#1, NE#3, and NE#4—were biased since they did not interview CM#1 and CM#2, were condescending, and sided with Neighbor #1.

The Complainant confirmed he was not present for any incident and received his information from CM#1 and CM#2. CM#1 concurred with the Complainant.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.180 Primary investigations 3. Officers shall take statements in Certain Circumstances

The Complainant alleged that the responding officers—NE#1, NE#3, and NE#4—failed to take a statement from CM#1 and CM#2.

SPD Policy requires officers to take statements in certain circumstances, such as domestic violence, juvenile arrest, and felony arrest investigations. See SPD Policy 15.180-POL-3.

Incident reports for Incident #2 and Incident #3, which BWV corroborated, conclusively show that officers interviewed CM#1 and CM#2. Additionally, the officers were investigating the incident, most likely as a misdemeanor. Under these facts, there was no further requirement for officers to take a more formal statement from CM#1 or CM#2.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #1 - Allegation #2

15.180 Primary investigations 5. Officers shall document all primary investigations on a report

The Complainant alleged the responding officers failed to conduct a thorough investigation that was documented in a complete, thorough, and accurate report.

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a Report. All reports must be complete, thorough, and accurate. See SPD Policy 15.180-POL-5.

The incident reports and BWV showed the responding officers spoke with both sides of the disturbance and ensured necessary evidence—such as the CCTV—would be gathered. The incident reports appeared consistent with BWV.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).



Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #1 - Allegation #3

5.140 Bias-Free Policing 2. Officers will not engage in bias-based policing

The Complainant alleged the responding officers were biased because they did not arrest Neighbor #1.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatment based on the race. *See id.*

OPA reviewed BWV, incident reports, surveillance video, and interviewed the Complainant and CM#1. Nothing in the evidence reviewed by OPA suggests the responding officers were biased against CM#1 or CM#2, nor did they appear to exhibit favoritism towards Neighbor #1 by not arresting him. On the contrary, the responding officers took statements from both sides of the dispute, sought additional evidence, and wrote accurate reports about the incident. The officers’ decision not to arrest Neighbor #1 was reasonable as the evidence available to them at the time—and additional surveillance video recovered—overwhelmingly suggests CM#1 was the primary aggressor and that Neighbor #1 reasonably feared CM#1.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #2 - Allegation #1

5.001 Standards and duties 11. Employees will be truthful and complete in all communication

The Complainant alleged NE#2 was dishonest by stating he attempted to call the Complainant back twice.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

NE#2 documented his two attempts to call NE#2. This was corroborated by his contemporaneous reports to dispatch of his two unsuccessful attempted to contact the Complainant by telephone.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #3 - Allegation #1

15.180 Primary investigations 3. Officers shall take statements in Certain Circumstances

For the reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**



Named Employee #3 - Allegation #2

15.180 Primary investigations 5. Officers shall document all primary investigations on a report

For the reasons set forth above at Named Employee #1, Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #3 - Allegation #3

5.140 Bias-Free Policing 2. Officers will not engage in bias-based policing

For the reasons set forth above at Named Employee #1, Allegation #3, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #4 - Allegation #1

15.180 Primary investigations 3. Officers shall take statements in Certain Circumstances

For the reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #4 - Allegation #2

15.180 Primary investigations 5. Officers shall document all primary investigations on a report

For the reasons set forth above at Named Employee #1, Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #4 - Allegation #3

5.140 Bias-Free Policing 2. Officers will not engage in bias-based policing

For the reasons set forth above at Named Employee #1, Allegation #3, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**